

REMARKS**I. INTRODUCTION**

Claims 1 and 8-10 have been amended. The Abstract and the Specification have also been amended. No new matter has been added. Claims 1-10 remain pending in this application. The Applicants thank the Examiner for indicating the allowability of claims 4-6. However, in view of the above amendments and the following remarks, it is respectfully submitted that all of the above-identified claims are allowable.

II. THE WITHDRAWAL OF CLAIM 3 UNDER 37 CFR 1.142(b) SHOULD BE RECONSIDERED

The Examiner has withdrawn claim 3 from further consideration under 37 CFR 1.142(b), “as being drawn to a nonelected species, there being no allowable generic or linking claim.” (See 07/02/2007 Office Action, page 2, lines 3-4). The Examiner also states that the “the different structural embodiments are mutually exclusive and do not overlap in scope.” (See 07/02/2007 Office Action, page 2, lines 6-8). Applicants’ respectfully disagree. Applicants maintain the position that claim 3 is not a different species. Claim 3 and claims 4-7 both refer to “an electrode assembly” comprising a “conductive material” and an “impedance control means.” Claim 3 and claims 4-7 are further defined by claim 2. Claim 3 states one embodiment of an electrode assembly comprising a conductive material and an impedance control means. Claims 4-7 state yet another embodiment of an electrode assembly comprising a conductive material and an impedance control means. The two embodiments are not mutually exclusive and do overlap in scope. Further, claim 3 and claims 4-7 both consist of impedance control means comprising a depot and an actuatable discharge means, as recited in claim 2. Thus, it is respectfully submitted that claim 3 and claims 4-7 do not represent mutually exclusive embodiments. Therefore, the 37 CFR 1.142(b) rejection of claim 3 should be withdrawn. The Examiner has not shown that claim 3 would be classified in a different class from claims 4-7 nor has explained the undue burden on the Examiner in examining claim 3. Accordingly, Applicants respectfully submit that claim 3 should be examined with the remaining claims.

III. THE SPECIFICATION OBJECTIONS SHOULD BE WITHDRAWN

The Examiner objects to the abstract of the disclosure because the abstract “does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). (See 07/02/2007 Office Action, page 2, lines 11-12). The abstract has been placed on a separate sheet. Thus, it is respectfully submitted that the 37 CFR 1.52(b)(4) objection be withdrawn.

The Examiner objects to the specification because the specification does not include the suggested headings provided in 37 CFR 1.77(b). However, the provisions of 37CFR 1.77(b) indicate that the specification *should* include the following sections in order and that each of the lettered items *should* appear in upper case, without underlining or bold type. That is, the headings are not required as “must” language is not used. Applicants respectfully decline to add the suggested headings.

The Examiner objects to the specification because of an informality on page 5, line 20. (See 07/02/2007 Office Action, page 3, lines 13-14). The correction has been made and, therefore, it is respectfully submitted that the specification objection be withdrawn.

IV. THE 35 U.S.C. §112 REJECTION SHOULD BE WITHDRAWN

Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite “for failing to particularly point out and distinctly claim the subject matter.” (See 07/02/2007 Office Action, page 3, lines 20-22). The Examiner states that claim 8 “fails to define a system since the only recited structure is the electrode of claim1.” (See 07/02/2007 Office Action, page 3, lines 22-23). Claim 8 has been amended to define a system comprising “an electrode assembly according to claim 1 and a power supply unit electrically connected to the electrode assembly.” Therefore, it is respectfully submitted that claim 8 defines a system.

The Examiner rejects claims 9 and 10 as failing “to set forth structure to effect the recited functions.” (See 07/02/2007 Office Action, page 3, line 23). Claims 9 and 10 have been amended to recite proper functional limitations.

Therefore, it is respectfully submitted that the 35 U.S.C. 112, second paragraph, rejections should be withdrawn.

V. **THE 35 U.S.C. §102(b) REJECTION SHOULD BE WITHDRAWN**

Claims 1, 2, 7, 8, and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,628,729 to Okabe (hereinafter “Okabe”).

Claim 1 recites an “electrode assembly arranged to carry out a bioelectrical interaction with an individual, said electrode assembly comprising a conductive material having a contact surface arranged to be brought into contact with a receiving area of the individual’s skin, said conductive material being electrically connectable to a suitable electronic device to enable said interaction, characterized in that said electrode assembly comprises *impedance control means arranged to measure and control the impedance of the receiving area of the individual’s skin prior to an event of the bioelectrical interaction.*”

Okabe discloses an interface comprising an aqueous solution supply member 1 adhered to a water-permeable electrode 3 and a water-absorbable or water-permeable film-like membrane 5 is affixed to the bottom of the water-permeable electrode 3. (See Okabe, col. 3, lines 1-16). The aqueous solution 2, housed in the aqueous solution supply member 1, is used to “dissolve a drug at the time of use and” forms “a conductive path.” (See Okabe, col. 3, lines 1-5). Okabe further discloses a conductive terminal 4 with an external iontophoresis output unit that is connected by the electric lead line 11. (See Okabe, col. 4, lines 21-22). The “drug 6 dissolved in the aqueous solution 2 is placed under an electrical transdermal administration state” by the iontophoresis output unit. (See Okabe, col. 4, lines 24-25, See also Okabe, col. 5, lines 11-16). Okabe never discloses or suggests that the interface comprises an “*impedance control means arranged to measure and control the impedance of the receiving area of the individual’s skin prior to an event of the bioelectrical interaction,*” as recited in claim 1. In fact, throughout the entire disclosure, Okabe is silent about impedance. Okabe never discusses or suggests that one can measure the impedance of an individual’s skin. Thus, Okabe does not teach or suggest any mechanism for controlling the impedance of a “receiving area of the individual’s skin,” as recited in claim 1.

Thus, it is therefore respectfully submitted that Okabe neither teaches nor suggests an electrode assembly comprising an “*impedance control means arranged to measure and control the impedance of the receiving area of the individual’s skin prior to an event of the bioelectrical*

interaction,” as recited in claim 1. Accordingly, it is respectfully submitted that claim 1 is allowable. Because claims 2 and 7 depend from and, therefore, include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Furthermore, claim 8 recites a system comprising an electrode assembly according to claim 1. Because claim 8 comprises an electrode assembly of claim 1 and, therefore, includes all the limitations of claim 1, it is respectfully submitted that claims 8 and 10 are also allowable.

VI. THE 35 U.S.C. §102(e) REJECTION SHOULD BE WITHDRAWN

Claims 1, 2, and 7-10 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,640,118 to Van Heerden et al. (hereinafter “Van Heerden”).

Claim 1 was recited in its entirety above. Van Heerden discloses a “skin engageable, conductive silicon electrode assembly adapted for making selectable contact with the skin.” (*See* Van Heerden, col. 1, lines 6-9). Van Heerden’s electrode assembly 1 comprises a conductive element 5 that is surrounded by a semi-fluid conductive layer 10 that is further surrounded by cover 15 and temperature sensitive wires 25 that are embedded or incorporated in cover 15. (*See Id.* at col. 2, lines 11-16). Heating wires 25 cause the semi-fluid conductive layer 10 to “permeate cover 15 through pores 17, thereby creating one or more electrical contacts 23.” (*See Id.* at col. 2, lines 61-65). Cooling wires 25 cause the reabsorption of semi-fluid conductive layer 10 via pores 17. (*See Id.* at col. 3, lines 2-5). The wires enable “electrical communication between the electronic power source and the skin.” (*See Id.* at col. 3, lines 8-10). Van Heerden never discloses or suggests that the electrode assembly comprises an “*impedance control means arranged to measure and control the impedance of the receiving area of the individual’s skin prior to an event of the bioelectrical interaction*,” as recited in claim 1. In fact, throughout the entire disclosure, Van Heerden is silent about measuring and/or controlling “impedance of the receiving area of the individual’s skin,” as recited in claim 1.

Van Heerden discloses that the electrode assembly’s semi-fluid conductive layer 10 either contacts the skin to enable “electrical communication between the electronic power source and the skin” or does not contact the skin to terminate the “electrical communication between the electronic power source and the skin.” (*See Id.* at col. 3, lines 8-10; lines 5-7). Van Heerden neither teaches nor suggests that an impedance control means measures or controls the

impedance as recited in claim 1. There is no device or other means described in Van Heerden for measuring the impedance of a receiving area. In fact, Van Heerden never even mentions the term impedance, let alone how one would measure and/or control this parameter.

Thus, it is therefore respectfully submitted that Van Heerden neither teaches nor suggests an electrode assembly comprising an “*impedance control means arranged to measure and control the impedance of the receiving area of the individual's skin prior to an event of the bioelectrical interaction,*” as recited in claim 1. Accordingly, it is respectfully submitted that claim 1 is allowable. Because claims 2 and 7 depend from and, therefore, include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Furthermore, claim 8 recites a system comprising an electrode assembly according to claim 1. Because claim 8 comprises an electrode assembly of claim 1 and, therefore, includes all the limitations of claim 1, it is respectfully submitted that claims 8-10 are allowable.

CONCLUSION

In view of the remarks submitted above, the Applicants respectfully submit that the present case is in condition for allowance. All issues raised by the Examiner have been addressed, and a favorable action on the merits is thus earnestly requested.

Respectfully submitted,

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